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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHELLE LUSZEY and NARCISCA CRESPO, Individually, and on behalf of all others similarly situated, Plaintiffs, v. SUSAN A. NAM LLC d/b/a POLISHED BEAUTY BAR, SUSAN NAM and MICKI NAM, Defendants.	1:15-CV-06357 (GBD) **ANSWER**

Defendants SUSAN A. NAM LLC, SUSAN NAM, and MICKI NAM ("Defendants") by their attorneys, TOR EKELAND, P.C., answers Plaintiffs MICHELLE LUSZEY'S and NARCISCA CRESPO'S ("Plaintiffs") Complaint ("Complaint") as follows:

JURISDICTION AND VENUE

1. The allegations contained in Paragraph 1 of the Complaint state legal conclusions to which a response is not required.
2. The allegations contained in Paragraph 2 of the Complaint state legal conclusions to which a response is not required.

3. The allegations contained in Paragraph 3 of the Complaint state legal conclusions to which a response is not required.
4. The allegations contained in Paragraph 4 of the Complaint state legal conclusions to which a response is not required.

PARTIES

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Complaint.
6. Admitted.
7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 of the Complaint.
8. Admitted.
9. Admits that Defendant Susan A. Nam LLC is a domestic limited liability company duly authorizes to conduct business in the State of New York.
10. Admitted.
11. Denied.
12. Admitted.
13. Denied.

FACTS

14. Admitted.
15. Admitted.
16. Admitted.
17. Denied.
18. Denied.
19. Denied.

20. Denied.

21. Admitted.

22. Admitted.

23. Admitted.

24. Denied.

25. Denied.

26. Denied.

27. Denied.

28. Admitted.

29. Admitted.

30. Admitted.

31. Admitted.

32. Admitted.

33. Admitted.

34. Admitted.

35. Admitted.

36. Admitted.

37. Admitted.

38. Denied.

39. Admitted.

40. Admitted.

41. Admitted.

42. Admitted.

43. Admitted.

44. Admitted.

45. Admitted.

46. Admitted.

47. Admitted.

48. Admitted.

49. The allegation contained in Paragraph 49 of the Complaint states a legal conclusion to which a response is not required.

50. Admitted as to Defendant Susan Nam and denied as to Defendant Micki Nam.

51. The allegation contained in Paragraph 51 of the Complaint states a legal conclusion to which a response is not required. To the extent a response is required, Defendants deny the allegations in Paragraph 51 of the Complaint.

GENERAL ALLEGATIONS

52. Admits that Plaintiffs have brought this action under the FLSA, but denies owing any unpaid overtime compensation, minimum wages and statutory penalties, or whatever other damages Plaintiffs may be seeking.

53. The allegations contained in Paragraph 53 of the Complaint state legal conclusions to which a response is not required.

54. Denied.

COLLECTIVE ACTIONS ALLEGATIONS

55. No answer required.

56. The allegations contained in Paragraph 56 of the Complaint state legal conclusions to which a response is not required.

57. Denied.

58. Denied.

COUNT I
VIOLATION OF THE FAIR LABOR STANDARDS ACT
29 U.S.C. § 201 *et seq.*
FAILURE TO COMPENSATE FOR OVERTIME

59. Defendants restate the responses in this Answer.

60. The allegations contained in Paragraph 60 of the Complaint state legal conclusions to which a response is not required.

61. The allegations contained in Paragraph 61 of the Complaint state legal conclusions to which a response is not required.

62. Denied.

63. The allegations contained in Paragraph 63 of the Complaint state legal conclusions to which a response is not required.

64. The allegations contained in Paragraph 64 of the Complaint state legal conclusions to which a response is not required.

65. The allegations contained in Paragraph 65 of the Complaint state legal conclusions to which a response is not required.

66. The allegations contained in Paragraph 66 of the Complaint state legal conclusions to which a response is not required.

67. Denied.

68. Denied.

69. Denied.

COUNT II
VIOLATION OF THE FAIR LABOR STANDARDS ACT
29 U.S.C. § 201, *et seq.*
FAILURE TO PAY MINIMUM WAGES

70. The allegations contained in Paragraph 70 of the Complaint state legal conclusions to which a response is not required.

71. The allegations contained in Paragraph 71 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Defendant denies the allegations in Paragraph 71 of the Complaint.
72. The allegations contained in Paragraph 72 of the Complaint state legal conclusions to which a response is not required.
73. Denied.
74. The allegations contained in Paragraph 74 of the Complaint state legal conclusions to which a response is not required.
75. Denied.
76. Denied.
77. Denied.
78. Denied.

STATE-WIDE CLASS ALLEGATIONS

79. No response required.
80. The allegations contained in Paragraph 80 of the Complaint state legal conclusions to which a response is not required.

Class Definitions

81. The allegations contained in Paragraph 81 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Defendants deny the allegations in Paragraph 81 of the Complaint.

Numerosity

82. Denied.
83. Admitted.

Common Questions of Fact or Law

84. Denied.

85. Denied.

Typicality

86. Denied.

Adequacy

87. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 87.

Superiority

88. Denied.

89. The allegations contained in Paragraph 89 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Defendants deny the allegations in Paragraph 81 of the Complaint.

90. Denied.

COUNT III
VIOLATION OF THE NEW YORK LABOR ARTICLE 6 AND 19
FAILUR TO PAY OVERTIME UNDER NEW YORK LABOR LAW

91. Defendants restate the responses in this Answer.

92. The allegations contained in Paragraph 92 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Defendants deny the allegations in Paragraph 92 of the Complaint.

93. The allegations contained in Paragraph 93 of the Complaint state legal conclusions to which a response is not required.

94. The allegations contained in Paragraph 94 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Defendants deny the allegations in Paragraph 94 of the Complaint.

95. The allegations contained in Paragraph 95 of the Complaint state legal conclusions to which a response is not required.

96. Denied.

97. Denied.

98. Denied.

COUNT IV
NYLL Spread of Hours Claim

99. Denied.

100. The allegations contained in Paragraph 100 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Defendants deny the allegations in Paragraph 100 of the Complaint.

101. Denied.

102. Denied.

COUNT V
NYLL Minimum Wage Claim

103. The allegations contained in Paragraph 103 of the Complaint state legal conclusions to which a response is not required. To the extent a response is required, Defendant denies the allegations in Paragraph 103 of the Complaint.

104. Denies the allegations in Paragraph 104 of the Complaint.

105. Denies the allegations in Paragraph 105 of the Complaint.

106. Denies the allegations in Paragraph 106 of the Complaint.

AFFIRMATIVE DEFENSES

PLEASE TAKE FURTHER NOTICE that the following affirmative defenses are set forth as follows:

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state causes of action upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff lacks standing to bring these claims.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the doctrine of laches.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by estoppel.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the doctrine of unclean hands.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred because of Plaintiff's waiver.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs claims are barred by the Statute of Limitations.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred because they have received payment.

NINTH AFFIRMATIVE DEFENSE

Plaintiff has failed to mitigate its damages.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred to the extent that it has forfeited or abandoned its rights.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by Plaintiff's license, consent and acquiescence to Defendant's use of their service.

AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, because Defendant's conduct was in good faith and with non-willful intent, at all times.

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the statute of limitations.

AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE

Defendant's actions were ratified by Plaintiff.

Dated: January 15, 2016

By: /s/ Tor Ekeland

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